

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)

SOUTHBANK, A Federal Savings Bank)
Huntsville, Alabama)

OTS Docket No.: 08854)
_____)

Order No.: ATL-2005- 13

Date: **June 15, 2005**

STIPULATION AND CONSENT TO THE ISSUANCE OF AN
ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF

WHEREAS, the Office of Thrift Supervision (OTS), based upon information derived from the exercise of its regulatory responsibilities, is of the opinion that grounds exist to initiate an administrative cease and desist proceeding for affirmative relief against SOUTHBANK, A Federal Savings Bank, Huntsville, Alabama, OTS Docket No. 08854 (SOUTHBANK-AL or Bank) pursuant to Section 8(b) of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. § 1818(b),¹ and

WHEREAS, SOUTHBANK-AL is cooperating with the OTS and desires to avoid the time and expense of such administrative proceeding, and

WHEREAS, SOUTHBANK-AL enters into this Stipulation and Consent to the Issuance of an Order to Cease and Desist for Affirmative Relief (Stipulation) (i) without any adjudication on the merits; (ii) without admitting or denying that grounds exist to initiate an administrative cease and desist proceeding; (iii) without admitting or denying the Findings of Fact, except as to

¹ All references to the United States Code (U.S.C.) are as amended, unless otherwise indicated.



Jurisdiction (Paragraph 1 below), which jurisdiction is admitted; and (iv) solely for the purpose of settling this matter in accordance with Rule 408 of the Federal Rules of Evidence and equivalent state provisions.

NOW, THEREFORE, on these premises, SOUTHBANK-AL hereby stipulates and agrees as follows:

1. Jurisdiction

a. SOUTHBANK-AL is a "savings association" within the meaning of Section 3(b) of the FDIA, 12 U.S.C. § 1813(b), and Section 2(4) of the Home Owners' Loan Act (HOLA), 12 U.S.C. § 1462(4). Accordingly, SOUTHBANK-AL is an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C. § 1813(c).

b. Pursuant to Section 3(q) of the FDIA, 12 U.S.C. § 1813(q), the Director of the OTS is the "appropriate Federal banking agency" with jurisdiction to maintain an administrative cease and desist proceeding against such a savings association. Therefore, the Bank is subject to the jurisdiction of the OTS to initiate and maintain this proceeding against it pursuant to Section 8(b) of the FDIA, 12 U.S.C. § 1818(b). The Director of the OTS has delegated to the Regional Director of the Southeast Region of the OTS or his/her designee (Regional Director) the authority to issue cease and desist orders where the savings association has consented to the issuance of the orders.

2. OTS Findings of Fact

a. The OTS finds that the Bank has engaged in certain unsafe and unsound practices and violated various laws and regulations to which the Bank is subject, as outlined in detail in the OTS's May 27, 2004 Report of Examination of SOUTHBANK-AL (2004 Examination). Such violations include violations of 12 C.F.R. Part 215, and 12 C.F.R. §



563.43, § 560.160, and § 563.170 of the OTS regulations, as well as 31 U.S.C. Section 5311 et seq.

- b. The Bank failed to obtain a timely independent audit² of its financial statements and records for the 2003 fiscal year. Further, reporting and recordkeeping weaknesses at SOUTHBANK-AL existed with respect to (i) limits on speculative construction lending, loans to one borrower (LTOB), and the adequacy of the allowance for loan and lease losses; (ii) files on real estate owned by the Bank; and (iii) Board meeting minutes.
- c. During a five-month period in 2004, the Board has failed to hold and conduct regular monthly meetings to oversee the management and operations of the Bank.
- d. The Bank failed to comply with limitations and restrictions on loans and extensions of credit to insiders.
- e. The Bank violated 12 C.F.R. Part 223 and 12 C.F.R. § 563.41 by allowing overdrafts to occur involving an affiliate of the Bank without complying with the quantitative and qualitative requirements of Part 223 and Section 563.41.
- f. The Bank failed to correct certain concerns and deficiencies identified in the Bank's immediately preceding examination regarding the establishment and maintenance of adequate records and documentation, as directed by the OTS.
- g. The Bank's (i) customer identification procedures; (ii) risk assessment of products and customers; and (iii) documentation of compliance with Office of Foreign Assets Control requirements were inadequate.

² At that time, the Bank was voluntarily obtaining an annual independent audit.



h. The Board of Directors and Management of SOUTHBANK-AL has and is continuing to cooperate with the OTS to address and correct the violations, deficiencies, and unsafe or unsound practices detailed in the 2004 Examination.

3. Consent

SOUTHBANK-AL consents to the issuance by the OTS of the accompanying Consent Order to Cease and Desist for Affirmative Relief (Order). The Bank further agrees to comply with the terms of the Order upon issuance and stipulates that the Order complies with all requirements of law.

4. Finality

The Order is issued under 12 U.S.C. §§ 1818(b). Upon its issuance by the Regional Director, it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, 12 U.S.C. § 1818(i).

5. Waivers

SOUTHBANK-AL waives the following:

- a. the right to be served with any written notice of the OTS's charges against it as provided by Section 8(b) of the FDIA, 12 U.S.C. § 1818(b);
- b. the right to an administrative hearing of the OTS's charges against it as provided by Section 8(b) of the FDIA, 12 U.S.C. § 1818(b);
- c. the right to seek judicial review of the Order including, without limitation, any such right provided by Sections 8(h) or (i) of the FDIA, 12 U.S.C. §§ 1818(h) and (i), or otherwise to challenge the validity of the Order;
- d. any and all claims against the OTS, including its employees and agents, and any other governmental entity for the award of fees, costs, or expenses related to this OTS



enforcement matter and/or the Order, whether arising under common law, the Equal Access to Justice Act, 5 U.S.C. § 504, or 28 U.S.C. § 2412; and

e. the right to assert this proceeding, its consent to issuance of the Order, and/or the issuance of the Order, as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other governmental entity.

6. Other Governmental Actions Not Affected

a. Upon the OTS's issuance of the accompanying Order, following the OTS's acceptance of this Stipulation executed by the Bank, OTS does release and discharge SOUTHBANK-AL from all potential claims and charges that have been or might have been asserted by the OTS, based on the alleged violations described in the Findings of Fact set forth in Paragraph 2 of this Stipulation, to the extent known to the OTS as of the effective date of the accompanying Order. However, the violations alleged above in Paragraph 2 of this Stipulation may be utilized by the OTS in future enforcement actions to establish a pattern or practice of violations or the continuation of a pattern or practice of violations. This release shall not preclude or affect any right of the OTS to determine and ensure compliance with the terms and provisions of this Stipulation and the accompanying Order.

b. SOUTHBANK-AL acknowledges and agrees that its consent to the issuance of the accompanying Order is solely for the purpose of resolving certain potential OTS administrative enforcement charges as provided by Paragraph 6(a) above, and does not otherwise release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, liability, or other administrative, civil, or criminal



proceeding that arise pursuant to this action or otherwise, and that may be or have been brought by another governmental entity.

7. Reservation of Rights

SOUTHBANK-AL acknowledges that the OTS reserves the right to bring such additional action(s), charge(s), or proceeding(s) arising from or related in any way to the Findings of Fact or any other matter, as the OTS deems appropriate, in its sole discretion.

8. Agreement for Continuing Cooperation

SOUTHBANK-AL agrees that, on reasonable notice and without service of a subpoena, it will promptly respond to any written request from the OTS for documents that the OTS reasonably requests to demonstrate compliance with the Order. SOUTHBANK-AL agrees to cooperate with the OTS or any other federal agency in any review requested by the OTS or any other federal government agency, or in any investigation, litigation, or other proceeding relating to SOUTHBANK-AL, its holding company, subsidiaries, service corporations, or institution-affiliated parties.

9. Miscellaneous

- a. The construction and validity of this Stipulation and the Order shall be governed by the laws of the United States of America.
- b. If any provision of this Stipulation and the Order is ruled to be invalid, illegal, or unenforceable by the decision of any Court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby, unless the Regional Director in his or her sole discretion determines otherwise.



Stipulation and Consent to the Issuance of an Order to Cease and Desist for Affirmative Relief
intending to be legally bound hereby.

SOUTHBank, a FSB
Huntsville, Alabama
Accepted by a majority of its directors:

OFFICE OF THRIFT SUPERVISION

By: _____
Director

/ s /
John E. Ryan
Regional Director

Director

Dated: June 15, 2005

/ s /
Director

Director

Director

Director

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SOUTHBANK, a FSB
Huntsville, Alabama
Accepted by a majority of its directors:

OFFICE OF THRIFT SUPERVISION

By: _____
Director

_____/s/_____
John E. Ryan
Regional Director

Director

Dated: June 15, 2005

Director

_____/s/_____
Director

_____/s/_____
Director

_____/s/_____
Director

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

<hr style="border-top: 1px solid black;"/> <div style="display: flex; justify-content: space-between; border-left: 1px solid black; border-right: 1px solid black; padding: 0 10px;"><div style="width: 45%;"><p>In the Matter of</p><p>SOUTHBANK, A Federal Savings Bank Huntsville, Alabama</p><p>OTS Docket No.: 08854</p></div><div style="width: 5%; text-align: center; font-size: 2em;">)</div></div> <hr style="border-top: 1px solid black;"/>)	<p>Order No.: ATL-2005- 13</p> <p>Date: June 15, 2005</p>
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CONSENT ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF

WHEREAS, SOUTHBANK, A Federal Savings Bank, Huntsville, Alabama, OTS Docket No. 08854 (SOUTHBANK-AL or Bank), by and through its Board of Directors (Board), has executed a Stipulation and Consent to the Issuance of an Order to Cease and Desist for Affirmative Relief (Stipulation); and

WHEREAS, SOUTHBANK-AL, by executing the Stipulation, has consented and agreed to the issuance of this Consent Order to Cease and Desist for Affirmative Relief (Order) by the Office of Thrift Supervision (OTS), pursuant to Section 8(b) of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. § 1818(b)¹; and

WHEREAS, the Director of the OTS has delegated to the Regional Directors of the OTS the authority to issue consent orders on behalf of the OTS pursuant to provisions of Section 8 of the FDIA, 12 U.S.C. § 1818; and

WHEREAS, the Board and Management of SOUTHBANK-AL has and is continuing to cooperate with the OTS to address and correct the violations, deficiencies, and unsafe or unsound

¹ All references to the United States Code (U.S.C.) are as amended.

practices detailed in the OTS's May 27, 2004 Report of Examination of the Bank (2004 Examination).

NOW, THEREFORE, IT IS ORDERED THAT:

Future Compliance With Specific Statutes and Regulations

1. The Bank and its directors, officers, employees, and agents shall not take any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling or the aiding and abetting of any violation of:
 - a. the OTS regulations regarding conflicts of interest set forth at 12 C.F.R. § 563.200;
 - b. the regulations governing loans to officers, directors and principal shareholders (Insiders) set forth in 12 C.F.R. Part 215 (Regulation O) and 12 C.F.R. § 563.43;
 - c. the OTS regulations regarding the establishment and maintenance of records set forth in 12 C.F.R. § 563.170;
 - d. the regulations governing re-evaluation of real estate acquired via foreclosure or in-substance foreclosure set forth in 12 C.F.R. § 560.172;
 - e. the regulations governing transactions with affiliates set forth in 12 C.F.R. Part 223 (Regulation W) and 12 C.F.R. § 563.41;
 - f. the Flood Disaster Protection Act, 42 U.S.C. § 4001 et seq. (FDPA) and the FDPA regulations issued by the OTS at 12 C.F.R. § 572; and
 - g. the Bank Secrecy Act, 31 U.S.C. § 5311 et seq. (BSA), and the regulations implementing the requirements of BSA set forth at 31 C.F.R. Part 103 and 12 C. F. R. § 563.177 (collectively, the BSA Laws and Regulations).

Management Oversight Committee

2. Effective immediately, the Board shall convene its recently established Management Oversight Committee comprised of three independent directors² (Oversight Committee) to

² An 'independent' director is a director who is not an individual serving as a member of Management or Chairman of the Board of (i) SOUTHBANK-AL; (ii) SOUTHBANK-FL; or (iii) and affiliate or subsidiary of either (i) or (ii).

review, monitor and provide prior written approval of all Management proposals with respect to (a) transactions involving Insiders, including (i) loans or other extensions of credit (which shall include any overdrafts) to Insiders or companies controlled by Insiders, (ii) loans or other extensions of credit to family members of Insiders or companies controlled by family members of Insiders, and (iii) payments to or contracts with companies controlled by Insiders or their family members; (b) any transactions involving affiliates of SOUTHBank-AL or its sister bank, SOUTHBank, FSB, Palm Beach Gardens, Florida, OTS Docket No. 11351 (SOUTHBank-FL); or (c) any bonuses, salary increases, and/or employment contracts paid to or entered into with any Insider.

Loan Underwriting

3. Within sixty (60) days after the Effective Date of this Order, the Board shall complete the process of reviewing and revising the Bank's loan policy manual to ensure that it is consistent with all applicable laws, regulations and OTS guidance (Loan Policy). The Bank's revised Loan Policy shall include, at a minimum, the establishment and adoption of appropriate loan limits that consider the risks associated with concentrations of credit and provide for reasonable diversification thresholds, within each investment limit established in the Home Owners' Loan Act (HOLA), for each loan type, including unsecured loans and unsecured commercial loans. Further, the limits established by the Board for loans secured by real estate shall comply with the requirements of 12 C.F.R. § 560.101. Separate limits should be established within the Loan Policy for the Bank's (i) aggregate speculative construction loan portfolio; (ii) aggregate speculative construction loans secured by properties located in Florida; (iii) aggregate speculative construction loans by individual builder regardless of the location of the properties; (iv) aggregate speculative construction loans by development; (v) aggregate speculative land loans; and (vi) aggregate land loans secured by property located in Florida.

4. Beginning with the calendar quarter ending September 30, 2005, Management shall prepare and submit to the Board a quarterly report regarding the Bank's compliance with the

limits on speculative construction loans and land loans established in the Loan Policy required by Paragraph 3 above. This quarterly speculative construction and land loan report shall be submitted to the Board in writing for review within thirty (30) days following the end of each calendar quarter. This report shall, at a minimum, include:

- a. the total amount of committed and disbursed speculative construction loans;
- b. the total amount of committed and disbursed speculative construction loans in South Florida;
- c. the total amount of speculative land loans;
- d. the aggregate total speculative construction and land loans; and
- e. an analysis, for the properties sold and released, of the difference between original appraised value and the sales price.

5. The Board shall conduct its review of each of the quarterly speculative construction and land loan reports prepared and submitted by Management pursuant to Paragraph 4 above within thirty (30) days of receipt of each quarterly report from Management. The Board shall fully document its review of each quarterly report in the appropriate Board meeting minutes. A copy of each required quarterly report and the Board meeting minutes shall be provided to the Regional Director within ten (10) days after the date of the Board's quarterly review and approval of the quarterly report and execution of the Board minutes.

Past Transactions Involving Insiders

6. Within thirty (30) days after the Effective Date of this Order, the Board shall require Management to prepare and submit such reports and documentation as are necessary to enable the Board to review and determine the appropriateness of each of the specific transactions and series of transactions discussed in the Management/Administration section of the 2004 Examination, at pages 21 through 31.

Within sixty (60) days after the Effective Date of this Order, the Board shall conduct a complete review of the information provided by Management regarding each of the matters, transactions and series of transactions detailed in the Management/Administration section of the 2004 Examination. The Board's review of the foregoing matters and transactions shall include a written determination of the appropriateness of each of the above matters and transactions, each matter or transaction's compliance with applicable laws and regulations, and recommendations regarding any further action that should be taken regarding each of the above described matters, transactions and series of transactions detailed in the Management/Administration section of the 2004 Examination, including revisions to existing policies and procedures, as necessary, instructing Management regarding the approval level mandated for these types of matters in the future. The Board's review of each of these transactions shall be fully documented in the appropriate Board meeting minutes. A copy of the Board minutes and all supporting documentation reviewed by or generated by the Board shall be submitted to the Regional Director within ten (10) days after the Board's review.

Transactions with Insiders and Affiliates

7. Within sixty (60) days after the Effective Date of this Order, the Board shall review and amend the Bank's policies and procedures governing transactions with Insiders to strengthen and ensure the Bank's compliance with the requirements of Regulation O (Insider Policy). The Insider Policy amended and adopted by the Board shall specifically include all requirements and prohibitions detailed in 12 C.F.R. § 215 and shall require that, prior to considering any transaction covered by Regulation O, the Board obtain current, accurate, complete and detailed financial information from each Insider involved in the transaction.

8. Within sixty (60) days after the Effective Date of this Order, the Board shall review and amend as necessary the Bank's policies and procedures governing transactions with affiliates, as defined in 12 C.F.R. § 563.43, to strengthen and ensure the Bank's compliance with the requirements of Regulation W and 12 C.F.R. § 563.43 (TWA Policy). The amended TWA Policy adopted by the Board shall specifically require prior Board review and approval of all

transactions with affiliates, including transactions between the Bank and its sister savings association, SOUTHBank-FL. The Board shall ensure that all transactions with affiliates and SOUTHBank-FL comply with the requirements of Regulation W and the Bank's TWA Policy.

Corporate Governance and Board Oversight

9. Within thirty (30) days after the Effective Date of this Order, the Board shall review its existing organizational structure and develop, adopt, and implement policies and procedures establishing clear lines of authority, responsibility and reporting (Organizational Plan). The Board shall ensure that the authority, responsibilities and reporting requirements of each position are clearly defined and communicated to each employee. Within ninety (90) days after the Effective Date of this Order, the Board shall establish a strategic plan with specific goals and objectives for the activities and operations of Southbanc Mortgage (SBM Strategic Plan).

10. Effective immediately, the Board shall conduct regular monthly Board meetings and ensure that all major policy decisions and transactions, which shall include (i) the execution of any new employment contracts; (ii) the leasing of any new office space; or (iii) any increase in existing office space or other fixed assets (costing in excess of \$15,000), are presented to the Board for review and approval. The Board's Regulatory Compliance Committee, as defined in Paragraph 34 below, shall require Management to provide complete and accurate reports and other information to the Board and to each Board Committee in a timely manner to allow sufficient discussion and review by the Board members. The Board shall ensure that accurate, complete and detailed minutes of all Board and Board Committee meetings are prepared and maintained in the records of SOUTHBank-AL. Copies of any reports to the Board or Board Committees shall be retained with the appropriate Board minutes reflecting the review and discussion of such reports. The Board shall appoint one independent member, as defined at footnote 2 herein, to be responsible for reviewing and certifying the accuracy and completeness of the minutes of each of the Board meetings. Each Board Committee shall appoint one independent member, as defined at footnote 2 herein, who shall be responsible for reviewing and

certifying the accuracy and completeness of the minutes of each Board Committee meeting. The same independent director may be appointed for multiple Board Committees.

11. Effective immediately, the Board shall require Management to submit the Bank's quarterly TFRs to the Board for review and certification prior to filing such reports with the OTS. The Board's Regulatory Compliance Committee, as defined in Paragraph 34 below, shall review and execute the Officers and Directors Certification required by this Paragraph 11.

Strategic Business Plan

12. Within ninety (90) days after the Effective Date of this Order, the Board shall develop, adopt and submit to the Regional Director for review and approval a comprehensive three year strategic business plan (Business Plan) for the Bank that covers the second half of calendar year 2005, calendar years 2006 and 2007, as well as the first half of calendar year 2008. The Board shall review the Business Plan on at least an annual basis and make such amendments as are necessary in consideration of the Bank's performance under the prior year of the Business Plan. The Bank's Business Plan shall, at a minimum:

- a. detail the specific goals and objectives of the Bank;
- b. clearly, accurately and completely describe the Bank's current operations and lines of business, including a comprehensive assessment of the risks presented by each major operation and line of business, and include a breakdown of the costs of income production of each major operation and line of business to determine the profitability of each;
- c. discuss the resource needs (personnel, capital, fixed assets, etc.) of each operation and line of business, including the resources currently available to and employed by each operation and line of business;
- d. consider the human resource needs and Staffing and Training Plans adopted by the Board pursuant to Paragraph 14 below;

- e. clearly, accurately and completely describe and discuss the intended operations and major lines of business that the Bank plans to pursue in the future, including off balance sheet activities or other new activities, and identifying the target markets that will be served by such existing or intended operations or lines of businesses;
- f. discuss the financial and fixed asset resources that will be needed and required by increases in existing operations and lines of business or any new major operations and lines of business and the Board's plans and strategies for ensuring the availability of such resources, including the maintenance of capital sufficient to maintain well capitalized status (taking into consideration the additional capital needed to support the operations of Southbanc Mortgage) and adequately support the risk profile of the Bank;
- g. detail the Bank's operating strategies for each major operation and line of business, including pro forma financial statements and the identification of all relevant assumptions for the period covered by the Business Plan;
- h. specify and discuss the Board's strategies for improving the Bank's core earnings and profitability, including how the target markets identified in subparagraph e above will be served profitably by the operations or lines of business offered or to be offered by the Bank;
- i. include an annual budget, approved by the Board, and quarterly pro forma financial statements that include consideration of items a through h of this Paragraph 12, the growth limitations imposed by the OTS by letter dated November 4, 2004, the level of classified assets and REO, projected increases to the Bank's ALLL, and realistic quarterly mortgage banking income and expense projections, as well as the relevant assumptions upon which the Business Plan and financial statements are based, including projected interest rates, loan delinquency rates, sources and uses of funds, and cash flows; and
- j. include a discussion and assessment of the impact of any material outstanding litigation or lawsuits to which the Bank is a party.

13. Any major new activity, operation or line of business shall require the prior review and approval of the Board. Management shall prepare quarterly variance reports on the Bank's compliance with the Business Plan within thirty (30) days after the close of each calendar quarter, beginning with the calendar quarter ending December 31, 2005. Such variance reports shall detail actual operating results versus projected results and shall include an explanation of any material deviation from the Business Plan and a specific description of the measures that have been implemented, proposed or are under consideration to correct any material deviation. The Board shall review the variance reports on a quarterly basis, no later than thirty (30) days after the end of each calendar quarter, to monitor the Bank's compliance with the terms of the Business Plan. The Board's review shall be fully documented in the Board meeting minutes. A deviation shall be considered material under this Paragraph 13 when:

- a. the Bank engages in any activity that is inconsistent with the Business Plan; or
- b. the Bank exceeds the level of any activity contemplated in the Business Plan or fails to meet target amounts established in the Business Plan by more than 10%, unless the activity involves assets risk weighted 50% or less, in which case a variance of more than 25% shall be deemed to be a material deviation.

14. Within sixty (60) days after the Effective Date of this Order, the Board shall conduct a review of the Bank's existing personnel and determine the Bank's current and future staffing needs based upon the Bank's current and projected operations under the Business Plan adopted pursuant to Paragraph 12 above. Within ninety (90) days after the Effective Date of this Order, the Board shall prepare, adopt and implement a staffing plan, including plans for retaining qualified and experienced personnel and a management succession plan, to strengthen and improve the Bank's Management and operations and designed to meet the Bank's future needs (Staffing Plan). The Staffing Plan shall include a training plan to ensure that employees receive the necessary training based upon their respective positions and responsibilities (Training Plan). The Training Plan shall require mandatory attendance, specify the frequency of training, and include procedures and timeframes for updating training programs and materials and the method

for delivering training. The Bank shall maintain adequate documentation and records of all training attended by each employee.

BSA/USA PATRIOT ACT/OFAC Compliance

15. Within sixty (60) days after the Effective Date of this Order, the Board shall review and amend the Bank's BSA/USA PATRIOT ACT/OFAC policies and procedures (BSA Policy). In amending its BSA Policy, the Board shall:

- a. review and revise the Bank's customer identification procedures (CIP) for its deposit and loan operations to provide greater detail and guidance to Bank personnel regarding the CIP process, which revised CIP should discuss (i) the appropriate response in the event that a customer's identity cannot be reasonably demonstrated, (ii) the appropriate records to be maintained in verifying a customer's identity, and (iii) the appropriate action when a customer appears on the Office of Foreign Assets Control (OFAC) list;
- b. develop, adopt and implement a written methodology and standards for assigning risk levels to customers based upon specific factors as established by the Board, including but not limited to, (i) the type of business being conducted, and (ii) the specific products being offered and the geographic location(s) of the customer's operations;
- c. determine and establish appropriate levels of enhanced due diligence required for higher risk customers based upon the risk level assigned to such customer, including, but not limited to, (i) the appropriate documentation and records necessary to verify a customer's identity, business activities, and normal and customary transactions, and (ii) the routine monitoring of customer transactions and account activity to identify transactions or activity that is not normal or customary in light of past patterns of transactions or activity, not commensurate with expected transactions or activity, or otherwise suspicious or without any apparent legal purpose;

- d. establish standards and guidelines for determining when a transaction or activity is required to be reported to appropriate law enforcement and regulatory authorities pursuant to 12 C.F.R. § 563.180;
- e. conduct a risk assessment of the Bank's customer base using the methodology and standards adopted pursuant to subparagraph b above to identify categories of high risk customers, products and geographic locations, which risk assessment must ensure that the appropriate level of enhanced due diligence required by subparagraph c above has been performed and satisfied for each high risk customer identified and that any transactions deemed suspicious or without any apparent legal purpose have been reported in compliance with subparagraph d above and 12 C.F.R. § 563.180 (the SAR Regulations); and
- f. develop, implement, and thereafter ensure the Bank's adherence to a comprehensive training program for all appropriate operational and supervisory personnel to ensure their awareness of their responsibility for compliance with the requirements of (i) the BSA Laws and Regulations, and (ii) the SAR Regulations.

16. The Board shall require Management to maintain adequate records and documentation of all training attended by Bank personnel and provide the Board written quarterly reports demonstrating the Bank's compliance with Paragraph 15 of this Order and the BSA Laws and Regulations.

Flood Disaster Protection Act

17. Within sixty (60) days after the Effective Date of this Order, the Board shall review and amend as necessary the Bank's written FDPA policies and procedures (FDPA Policy) to ensure the Bank fully complies with the FDPA and the OTS regulations at 12 C.F.R. Part 572 (collectively, the FDPA Laws and Regulations). The FDPA Policy shall, at a minimum, establish a system to ensure that appropriate flood insurance is obtained and maintained on all property securing a loan from the Bank and that all flood determinations and notices are

accurately and timely completed and made, and require additional training of lending staff on the technical requirements of the FDPA Laws and Regulations.

18. Within ninety (90) days after the Effective Date of this Order, Management shall identify all loans made on or after December 27, 2002, that are subject to the requirements of 12 C.F.R. § 572.3. Management shall promptly correct any deficiencies or non-compliance with the FDPA Laws and Regulations noted in connection with the identified loans. Within 120 days after the Effective Date of this Order, Management shall prepare and provide to the Board a written report detailing the results of Management's loan review as required by this Paragraph 18, including any corrective action taken to remedy any noted deficiencies and non-compliance (FDPA Report). The Board shall review the FDPA Report at its next regularly scheduled Board meeting following receipt of the FDPA Report. A copy of (i) the FDPA Report and (ii) the Board minutes detailing the Board's review or a Board certification that the FDPA Report was reviewed by the Board shall be provided to the Regional Director within ten (10) days after the date of the Board meeting at which the FDPA Report is presented to and reviewed by the Board.

Real Estate Settlement Procedures Act

19. Within sixty (60) days after the Effective Date of this Order, the Board shall review and revise as necessary the Bank's written RESPA and Regulation X policies and procedures (RESPA Policy) to ensure the Bank fully complies with RESPA and Regulation X. The RESPA Policy as amended and adopted by the Board shall designate a member of Management who shall be responsible for the Bank's compliance with its RESPA Policy, the RESPA, and 12 C.F.R. Part 3500. The RESPA Policy shall, at a minimum, require additional training of lending staff on the technical requirements of Regulation X.

Capital

20. SOUTHBANK-AL shall comply with the additional risk based capital level previously agreed to by the Board to address OTS's concerns and the additional risk presented by the

operations of Southbanc Mortgage. Total risk based capital for the operations of Southbanc Mortgage, as committed to by the Board previously, shall consist of the sum of:

- a. 10 percent of risk weighted assets as of the end of each calendar quarter;
- b. an amount equal to three months of salary, commissions³ and benefit expenses for Southbanc Mortgage (the amount incurred as of the immediately previous calendar quarter);
- c. an amount equal to 10 percent of the second mortgage loans in the pipeline with loan to value ratios in excess of 90 percent, measured at the end of the immediately previous calendar quarter; and
- d. an amount equal to 50 percent of the lease commitment associated with the office space leased by Southbanc Mortgage, less an amount equal to 75 percent of the liquidation value of the workstations (this liquidation value should be calculated annually).

The Board shall review the Bank's capital level monthly and shall ensure that the Bank's risk based capital remains at or above the level required by this Paragraph 20 at all times.

21. Within thirty (30) days after the end of the each calendar quarter, beginning with the calendar quarter ending September 30, 2005, the Board shall review the Bank's compliance with the additional risk based capital level set forth in Paragraph 20 above. The Board's quarterly review of the Bank's compliance, and any corrective action required by the Board, shall be fully documented in the appropriate Board meeting minutes. A copy of the Board minutes and the quarterly capital compliance reports reviewed by the Board shall be submitted to the Regional Director within ten (10) days after the Board's review.

Independent Audit

³ Commissions that the Bank would not be legally obligated to pay upon termination of any employee(s) may be excluded.

22. Within thirty (30) days after the Effective Date of this Order, the Board shall provide the Regional Director with documentation that it has reviewed the results of the recently completed 2002-2004 independent consolidated audit of the Bank and its affiliates (Audit) and has adopted and required such actions be taken as necessary and appropriate to correct or address any deficiencies noted in the Audit.

Southbanc Mortgage

23. Effective immediately, the Board shall require Management to conduct quarterly quality control reviews of the operations of Southbanc Mortgage (QC Review) and take such action as is necessary to address any deficiencies or items of concern. Each QC Review shall be reported in writing and completed within thirty (30) days after the end of each calendar quarter. The QC Reviews shall specifically review for and confirm that all loans are being originated in compliance with the lending standards of the secondary market investors purchasing such loans. Management shall provide written quarterly reports to the Board (i) summarizing the overall operations of Southbanc Mortgage; (ii) the results of each quarterly QC Review, including the date of each review; (iii) the number of quarters for which QC Reviews have not yet been conducted or completed, as applicable; (iv) any corrective actions taken by Management; and (v) detailing any loans repurchased by the Bank or Southbanc Mortgage, including the reason(s) for such repurchase. Beginning with the Effective Date of this Order, the Board shall require an initial review to be conducted of any new secondary market investor(s) to which loans will be sold. Further, the Board shall require an annual review to be conducted of all existing and approved secondary market investors to which loans will be sold. The initial and annual reviews shall include a review of public financial statements, analysts' reports, major news publications or other information as may be obtained from or provided by the investor, as well as the terms and conditions of the Bank's contract with each such investor. The Board shall require a report to be prepared for the Board's review detailing the results of all initial and annual reviews. The Board shall review the report and fully document its review in the appropriate Board meeting minutes.

Allowance for Loan and Lease Losses

24. Within sixty (60) days after the Effective Date of this Order, the Board shall develop, adopt, and implement policies and procedures for assessing, establishing and maintaining an appropriate Allowance for Loan and Lease Losses (ALLL) in accordance with OTS regulatory guidance, including 12 C.F.R. § 560.160(b), Section 261 of the Thrift Activities Handbook (TAH), and the December 21, 1993 Interagency Policy Statement on ALLL (ALLL Policy). The ALLL Policy also shall address all deficiencies and considerations noted in the 2004 Examination.

25. The Board shall review the sufficiency of the ALLL at least once each calendar quarter, beginning with the calendar quarter ending September 30, 2005. Any deficiency in the ALLL shall be cured in the quarter in which it is discovered, before the Bank files its Thrift Financial Report (TFR) with the OTS. The Board shall document the factors considered and conclusions reached by the Board in determining the adequacy of the ALLL in the appropriate Board meeting minutes.

Real Estate Owned

26. Effective immediately, the Board shall require Management to perform valuations of all properties acquired by the Bank via foreclosure or in-substance foreclosure (REO) in accordance with the requirements of 12 C.F.R. § 560.172. Management shall be required to establish and maintain appropriate documentation and records for all REO, including records evidencing the proper reporting of all REO on the Bank's books and in the TFRs filed with the OTS, as well as the proper classification of REO in accordance with the requirements of 12 C.F.R. § 560.160 and the Bank's Asset Classification Policy.

27. Beginning with the calendar quarter ending September 30, 2005, the Board shall require Management to prepare quarterly reports, to be submitted to the Board in writing within thirty (30) days following the end of each calendar quarter, regarding the level of REO, the classification of all REO, Management's progress in disposing of REO, and the fair value for

each REO property. The Board shall review each quarterly REO report required by this Paragraph 27 within thirty (30) days of receipt of the quarterly REO report from Management and shall fully document its review of each quarterly REO report in the appropriate Board meeting minutes. A copy of each required quarterly REO report and the Board meeting minutes shall be provided to the Regional Director within ten (10) days after the date of the Board's quarterly review and execution of the Board minutes.

Internal Audit and Controls

28. Within sixty (60) days after the Effective Date of this Order, the Board shall review and amend as necessary the Bank's policies and procedures to ensure that the Bank has an adequate internal audit and control program that will test and report on the timeliness, completeness, and accuracy of the Bank's accounting, recordkeeping, and reporting functions (Audit Program). The Audit Program will be developed by a designated Internal Auditor or by a Board-approved third party firm in consultation with the Board's Audit Committee, and reports prepared pursuant to the Audit Program will be submitted to the Audit Committee for consideration and action. The Audit Program shall be appropriate for the Bank's size and complexity, including the nature and scope of its activities, and consistent with the guidance provided in Sections 340 and 355 of the TAH. The Bank's Audit Program as amended and adopted by the Board also shall, at a minimum, address all deficiencies and considerations noted in the 2004 Examination.

29. Beginning with the calendar quarter ending September 30, 2005, the Board shall require the Internal Auditor to submit quarterly reports to the Board within thirty (30) days after the end of each calendar quarter regarding the Bank's compliance during the immediately preceding calendar quarter with (i) applicable laws and regulations; (ii) the Audit Program and other applicable internal policies, procedures and plans; and (iii) this Order (Quarterly IA Report). Within sixty (60) days after the end of each calendar quarter, the Board shall review the Quarterly IA Report for the immediately preceding calendar quarter and adopt specific corrective actions as are necessary and appropriate. The Board's review of each Quarterly IA Report and

the corrective actions adopted as a result shall be documented in the minutes of the appropriate Board meeting.

Liquidity

30. Within sixty (60) days after the Effective Date of this Order, the Board shall prepare and adopt a liquidity policy that complies with the requirements of OTS Thrift Bulletin (TB) 77 (Liquidity Policy). The Liquidity Policy shall include comprehensive reporting requirements involving both short-term and long-term analysis of liquidity and cash flow (into and out of the Bank). The Liquidity Policy also shall, at a minimum, address all deficiencies and considerations noted in the 2004 Examination.

31. Effective immediately, the Bank shall not utilize or pledge in any way any securities or other assets of SOUTHBank-FL as collateral for any loan or advance from any Federal Home Loan Bank or any other lender or creditor.

Interest Rate Risk

32. Within sixty (60) days after the Effective Date of this Order, the Board shall review and amend as necessary the Bank's policies and procedures governing the Bank's interest rate risk policies to ensure that the review process is clearly and accurately described therein, including any required reports and to whom such reports must be provided for review (IRR Policy).

33. Effective immediately, the Board shall ensure that the Bank's interest rate risk is reviewed on a quarterly basis. Beginning with the calendar quarter ending September 30, 2005, the Board shall require Management to submit quarterly reports to the Board within thirty (30) days after the end of each calendar quarter regarding the Bank's interest rate risk and compliance during the immediately preceding calendar quarter with the IRR Policy (Quarterly IRR Report). Within sixty (60) days after the end of each calendar quarter, the Board shall review the Quarterly IRR Report for the immediately preceding calendar quarter and adopt specific

corrective actions as are necessary and appropriate. The Board's review of each Quarterly IRR Report and the corrective actions adopted as a result shall be documented in the minutes of the appropriate Board meeting.

Board Compliance Committee

34. The Board has appointed a Regulatory Compliance Committee comprised of three or more Directors, the majority of whom shall be independent, as defined at footnote 2 herein, to monitor and coordinate the Bank's compliance with the provisions of this Order and the completion of all corrective action required in the 2004 Examination. Within thirty (30) days after the Effective Date of this Order, the Board shall notify the Regional Director in writing the identity of the members of the Regulatory Compliance Committee and the Oversight Committee referenced in Paragraph 2 above.

35. Within thirty (30) days after the Effective Date of this Order, and thereafter within thirty (30) days after the end of each calendar quarter, the Regulatory Compliance Committee shall submit a written progress report to the Board detailing the actions taken to comply with each provision of this Order and the actions required by the 2004 Examination, as well as the results of those actions.

36. Within sixty (60) days after the Effective Date of this Order, and thereafter within sixty (60) days after the end of each calendar quarter, the Board shall submit to the Regional Director: (i) a copy of the Regulatory Compliance Committee's quarterly progress report required by the foregoing Paragraph 35, with any additional comments made by the Board, to the Regional Director; and (ii) a written certification that each Director has reviewed the report.

Compliance With Order

37. The Board shall take all steps necessary to ensure that all policies, procedures, corrective actions, plans, including the Business Plan detailed in Paragraph 13 above, programs, reviews and systems required by each of the Paragraphs of this Order (collectively, Policies and

Procedures) shall conform to all applicable statutes, regulations, OTS policy and guidance and shall be implemented and thereafter fully adhered to by Management and staff of the Bank. The Board shall submit copies of all Policies and Procedures required by this Order to the Regional Director within ten (10) days after adoption by the Board. The Board shall revise such Policies and Procedures as required by the Regional Director within thirty (30) days of receipt of written direction from the Regional Director. The Policies and Procedures, as modified consistent with the written direction of the Regional Director, shall be incorporated into this Order and any deviation from such Policies and Procedures shall be a violation of this Order.

Definitions

38. All technical words or terms used in this Order for which meanings are not specified or otherwise provided by the provisions of this Order shall, insofar as applicable, have meanings as defined in Chapter V of Title 12 of the Code of Federal Regulations, the HOLA, the FDIA, OTS Memoranda or other published OTS guidance. Any such technical words or terms used in this Order and undefined in said Code of Federal Regulations, the HOLA, the FDIA, or OTS Memoranda/guidance shall have meanings that are in accordance with the best custom and usage in the savings and loan industry.

Successor Statutes, Regulations, Guidance, Amendments

39. Reference in this Order to provisions of statutes, regulations, OTS Memoranda, and other published regulatory guidance shall be deemed to include references to all amendments to such provisions as have been made as of the Effective Date and references to successor provisions as they become applicable.

No Violations Authorized; OTS Not Restricted

40. Nothing in this Order or the Stipulation shall be construed as: (a) allowing the Bank to violate any law, rule, regulation, or policy statement to which it is subject, or (b) restricting or estopping the OTS from taking any action(s) that it believes are appropriate in fulfilling the

Time Limits; Effect of Headings; Separability Clause; Stipulation Incorporated

- Effective Date: Duration**

- OFFICE OF THRIFT SUPERVISION

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